

Department of State

§ 126.1

latter guidance must be followed). The Directorate of Defense Trade Controls will forward a copy of the license to the applicant for the applicant's information. The Defense Security Service will return the endorsed license to the Directorate of Defense Trade Controls upon completion of the authorized export or expiration of the license, whichever occurs first.

[71 FR 20546, Apr. 21, 2006]

PART 126—GENERAL POLICIES AND PROVISIONS

Sec.

- 126.1 Prohibited exports and sales to certain countries.
- 126.2 Temporary suspension or modification of this subchapter.
- 126.3 Exceptions.
- 126.4 Shipments by or for United States Government agencies.
- 126.5 Canadian exemptions.
- 126.6 Foreign-owned military aircraft and naval vessels, and the Foreign Military Sales program.
- 126.7 Denial, revocation, suspension or amendment of licenses and other approvals.
- 126.8 Proposals to foreign persons relating to significant military equipment.
- 126.9 Advisory opinions and related authorizations.
- 126.10 Disclosure of information.
- 126.11 Relations to other provisions of law.
- 126.12 Continuation in force.
- 126.13 Required information.
- 126.14 Special comprehensive export authorizations for NATO, Australia, and Japan.
- 126.15 Expedited processing of license applications for the export of defense articles and defense services to Australia or the United Kingdom.

AUTHORITY: Secs. 2, 38, 40, 42 and 71, Pub. L. 90-629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791 and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p.79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p.899; Sec. 1225, Pub. L. 108-375.

SOURCE: 58 FR 39312, July 22, 1993, unless otherwise noted.

§ 126.1 Prohibited exports and sales to certain countries.

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Belarus, Cuba, Iran, North Korea,

Syria, and Venezuela. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Liberia, and Sudan) or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Information regarding certain other embargoes appears elsewhere in this section. Comprehensive arms embargoes are normally the subject of a State Department notice published in the FEDERAL REGISTER. The exemptions provided in the regulations in this subchapter, except §123.17 of this subchapter, do not apply with respect to articles originating in or for export to any proscribed countries, areas, or persons in this §126.1.

(b) *Shipments.* A defense article licensed for export under this subchapter may not be shipped on a vessel, aircraft or other means of conveyance which is owned or operated by, or leased to or from, any of the proscribed countries or areas.

(c) *Exports and sales prohibited by United Nations Security Council embargoes.* Whenever the United Nations Security Council mandates an arms embargo, all transactions that are prohibited by the embargo and that involve U.S. persons anywhere, or any person in the United States, and defense articles or services of a type enumerated on the United States Munitions List (22 CFR part 121), irrespective of origin, are prohibited under the ITAR for the duration of the embargo, unless the Department of State publishes a notice in the FEDERAL REGISTER specifying different measures. This would include, but is not limited to, transactions involving trade by U.S. persons who are located inside or outside of the United States in defense articles or services of U.S. or foreign origin that are located inside or outside of the United States. United Nations Arms Embargoes include, but are not necessarily limited to, the following countries:

- (1) Cote d'Ivoire
- (2) Democratic Republic of Congo (see also paragraph (i) of this section)
- (3) Iraq
- (4) Iran
- (5) Lebanon
- (6) Liberia

(7) North Korea
 (8) Rwanda (see also paragraph (h) of this section)

(9) Sierra Leone

(10) Somalia

(11) Sudan

(d) *Terrorism*. Exports to countries which the Secretary of State has determined to have repeatedly provided support for acts of international terrorism are contrary to the foreign policy of the United States and are thus subject to the policy specified in paragraph (a) of this section and the requirements of section 40 of the Arms Export Control Act (22 U.S.C. 2780) and the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. 4801, note). The countries in this category are: Cuba, Iran, North Korea, Sudan and Syria.

(e) *Proposed sales*. No sale or transfer and no proposal to sell or transfer any defense articles, defense services or technical data subject to this subchapter may be made to any country referred to in this section (including the embassies or consulates of such a country), or to any person acting on its behalf, whether in the United States or abroad, without first obtaining a license or written approval of the Directorate of Defense Trade Controls. However, in accordance with paragraph (a) of this section, it is the policy of the Department of State to deny licenses and approvals in such cases. Any person who knows or has reason to know of such a proposed or actual sale, or transfer, of such articles, services or data must immediately inform the Directorate of Defense Trade Controls.

(f) *Iraq*. It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles, destined for or originating in Iraq except, if determined to be in the national interest of the United States and subject to the notification requirements of section 1504 of Public Law 108–11, exports may be authorized of nonlethal military equipment and, in the case of lethal military equipment, only that which is designated by the Secretary of State (or designee) for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated by the Secretary of

State (or designee) for use for private security purposes.

(g) *Afghanistan*. It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in Afghanistan except for the Government of Afghanistan (currently the Afghan Interim Authority) and the International Security Assistance Force, which will be reviewed on a case-by-case basis. In addition, lists of persons subject to a broad prohibition, including an arms embargo, due to their affiliation with the Taliban, Usama bin Laden, Al-Qaida or those associated with them will continue to be published from time to time.

(h) *Rwanda*. It is the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services, destined for or originating in Rwanda except for the Government of Rwanda, which will be reviewed on a case-by-case basis. UN Security Council Resolution 1011 (1995) lifted the embargo only with respect to the Government of Rwanda.

(i) *Democratic Republic of the Congo*. It is the policy of the United States to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in the Democratic Republic of the Congo except for non-lethal equipment and training (lethal and non-lethal) to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the transitional National Unity Government of the Democratic Republic of the Congo and the integrated Congolese national army and police forces, such units operating under the command of the etat-major integre of the Congolese Armed Forces or National Police, and such units in the process of being integrated outside the provinces of North and South Kivu and the Ituri district; and non-lethal equipment for humanitarian or protective use, and related assistance and training, as notified in advance to the UN. An arms embargo exists with respect to any recipient in the Democratic Republic of the Congo.

Department of State

§ 126.1

(j) *Haiti*. It is the policy of the United States to deny licenses, other approvals, exports or imports of defense articles and defense services, destined for or originating in Haiti. A denial policy will remain for exports or imports of defense articles and defense services destined for or originating in Haiti except, on a case-by-case basis, for supplies of arms and related materials or technical training and assistance intended solely for the support of or use by security units that operate under the command of the Government of Haiti, supplies of arms and related materials for technical training and assistance intended solely for the support of or use by the United Nations or a United Nations-authorized mission, and personal protective clothing, including flak jackets and helmets, for use by personnel from the United Nations and other international organizations, representatives of the media, and development workers and associated personnel. All shipments of arms and related materials consistent with such exemptions shall only be made to Haitian security units as designated by the Government of Haiti, in coordination with the U.S. Government.

(k) *Libya*. It is the policy of the United States to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in Libya except, on a case-by-case basis, for:

(1) Non-lethal defense articles and defense services,

(2) Non-lethal safety-of-use defense articles (e.g., cartridge actuated devices, propellant actuated devices and technical manuals for military aircraft for purposes of enhancing the safety of the aircrew) as spare parts for lethal end-items.

For non-lethal defense end-items, no distinction will be made between Libya's existing and new inventory.

(l) *Vietnam*. It is the policy of the United States to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in Vietnam except, on a case-by-case basis, for:

(1) Non-lethal defense articles and defense services, and

(2) Non-lethal, safety-of-use defense articles (e.g., cartridge actuated de-

vices, propellant actuated devices and technical manuals for military aircraft for purposes of enhancing the safety of the aircraft crew) for lethal end-items.

For non-lethal defense end-items, no distinction will be made between Vietnam's existing and new inventory.

(m) *Somalia*. It is the policy of the United States to deny licenses, or other approvals, for exports or imports of defense articles and defense services destined for or originating in Somalia. A denial policy will remain for exports or imports of defense articles and defense services destined for or originating in Somalia except, on a case-by-case basis, for defense articles and defense services intended solely for:

(1) Support for the African Union Mission to Somalia (AMISOM), and

(2) Support for the purpose of helping develop security sector institutions in Somalia that further the objectives of peace, stability and reconciliation in Somalia, after advance notification of the proposed export by the United States Government to the UN Somalia Sanctions Committee and the absence of a negative decision by that committee.

Exemptions from the licensing requirement may not be used with respect to any export to Somalia unless specifically authorized in writing by the Directorate of Defense Trade Controls.

(n) *Sri Lanka*. It is the policy of the United States to deny licenses and other approvals to export or otherwise transfer defense articles and services to Sri Lanka except, on a case-by-case basis, for technical data or equipment made available for the limited purposes of maritime and air surveillance and communications.

[58 FR 39312, July 22, 1993, as amended at 59 FR 15625, Apr. 4, 1994; 59 FR 42158, Aug. 17, 1994; 61 FR 6113, Feb. 16, 1996; 67 FR 44352, July 2, 2002; 68 FR 44614, July 30, 2003; 68 FR 65634, Nov. 21, 2003; 69 FR 18811, Apr. 9, 2004; 70 FR 50967, Aug. 29, 2005; 71 FR 20546, Apr. 21, 2006; 71 FR 58497, Oct. 4, 2006; 72 FR 5615, Feb. 7, 2007; 72 FR 15831, Apr. 3, 2007; 72 FR 28603, May 22, 2007; 72 FR 71575, Dec. 18, 2007; 73 FR 15410, Mar. 24, 2008]